

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-596

May 7, 2001

MAINE PUBLIC UTILITIES COMMISSION
Investigation of Stranded Cost Recovery
Transmission and Distribution, Utility
Revenue Requirements, and rate design of
Bangor Hydro-Electric Company

ORDER ON
RECONSIDERATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

On March 28, 2001, we issued an order in this proceeding which reduced the transmission and distribution rates (T&D) of Bangor Hydro-Electric Company (BHE or Company) by 0.8¢/kWh for customers that fall within the Company's large non-residential standard offer customer class in order to mitigate the impact of significant increases to generation prices that these customers must pay effective March 1, 2001, but declined to extend the reduction to customers within that class on special rate contracts. By this Order, we grant in part and deny in part the motion of the Industrial Energy Consumer Group (IECG) to modify our decision of March 28, 2001, and thus expand the scope of the mitigation reduction to include, within certain parameters, customers on special rate contracts but decline to increase the amount of the mitigation to 1.0¢/kWh.

II. BACKGROUND

On February 9, 2001, recognizing the impact of the significant increase in generation prices on BHE's customers, the Commission invited comment from interested persons on whether the Commission should act to mitigate the increases. Based on the comments provided, the Commission found that even though generation costs are no longer regulated, it was clear that the generation price increases could cause "rate shock" and that the Asset Sale Gain Account (ASGA) that resulted from BHE's generation asset divestiture provided the Commission with flexibility to mitigate "rate shock" by modifying the ASGA amortization schedule.

We noted in our March 28, 2001 Order that in a companion order issued in Docket No. 97-580 we had lowered distribution charges to CMP's medium and large customer's core rates by 0.8¢/kWh. The Commission concluded that for reasons similar to those enunciated in our March 28, 2001 Order in 97-580, BHE's large standard offer class customers (whether or not such customers actually took standard offer service)

should also receive the 0.8¢/kWh rate reduction over the period of April 15, 2001 to February 28, 2002. We further observed, however, that:

Unfortunately, the amount of BHE's asset sale account is not comparable to that of CMP. There is simply less value to offset BHE's future stranded costs recovery. Additionally, BHE faces a stranded cost revenue requirement increase in 2003 because of the expiration of the advantageous BHE-Unitil contract. Accordingly, we believe that prudence dictates that an 0.8¢/kWh price reduction for all of BHE customers must be rejected, even though we granted such relief to CMP's T&D ratepayers that are subject to similar generation price spikes.

Order, Docket No. 97-580 (March 26, 2001).

We also concluded that the 0.8¢/kWh price reduction should not be applied to customers on special rate contracts. Prices for customers on "bundled rate" contracts are already mitigated since such customers pay the same bundled rate regardless of the cost of generation service. We concluded that other special rate contract customers have had the benefit of lower T&D rates through contractual commitments and should be held to the bargain they made with the utility.

On April 5, 2001, the IECG filed a motion asking that we reconsider our March 28, 2001 Order.¹ In its motion for reconsideration, the IECG requested that the Commission reconsider its decision to exclude customers with special T&D contracts within the large non-residential standard offer class from the mitigation reduction and that the mitigation reduction be increased to 1.0¢/kWh to be applied to all eligible customers in the way of a bill credit. The IECG argued that by excluding special rate contract customers from the effect of the mitigation order, the Commission failed to recognize the impact that the dramatic increase in energy prices would have on such customers. As part of its motion, the IECG incorporated the testimony before the Legislature of State Economist, Laurie LaChance. Citing that testimony, the IECG argued that the Commission should modify its decision while taking into account the following policy considerations:

1. Accelerated draw-down of the asset sale gain account should be capped and expenditure of those funds limited to one year;
2. The absolute cap should be set at a level which ensures that less than 2 years is shaved from the amortization schedule, and a shortening of the schedule by 1 to 1.5 years should be the preferred target; and

¹ By way of this Order, we waive the provision of Section 1004 of our Rules of Practice and Procedure that motions for reconsideration not acted on within 20 days are deemed denied.

3. Eligibility for rate relief from this fund should be expanded to at least consider those customers who currently have special rate contracts.

In its response to the IECG's motion, BHE argued against both increasing the level of the price mitigation from .8¢/kWh to 1.0¢/kWh and expanding the scope of the mitigation reduction to include customers taking service pursuant to targeted rates and contracts. The Company argued that the Commission's rationale for excluding special rate contracts in its initial order was sound and that the Commission should continue to exclude such customers from the scope of the mitigation order. In addition, the Company argued that although it did not challenge the Commission's March 28, 2001 Order, the IECG's motion exemplifies the down-side of what it believes has amounted to a single-issue rate case. Finally, the Company argued that the Commission's March 28, 2001 decision to mitigate rates mistakenly linked changes in generation rates to T&D rates, thus undermining the whole concept of restructuring.

III. DECISION

A. Scope of the Mitigation Reduction

As we noted in our March 28, 2001 Order, special rate contract customers have benefited from lower T&D rates through their contracts and, in most instances, the special contract rate is still lower than the mitigated T&D rate for similarly situated BHE core customers. We agree with the IECG's argument that the underlying rationale for our decision to use the Asset Sale Gain Account to reduce T&D rates at this time was to soften the rate shock from the recent increase in generation prices. We also agree with the IECG that special rate contract customers, although receiving a lower T&D rate than core customers, will suffer from the same rate shock due to the recent run-up in generation prices. We are therefore persuaded, based on the arguments presented on reconsideration, that the mitigation reduction which we ordered on March 28, 2001 should be expanded to include, within the parameters discussed below, special rate contract customers.

First, we will continue to exclude from the mitigation reduction customers on bundled special rate contracts because those customers pay the same total rate regardless of the generation price. Therefore, the rates for customers with bundled contracts are already effectively mitigated and should not be reduced further. Second, customers whose special rates are tied to core rates have also effectively received a mitigation reduction when we reduced core rates and should not receive further reduction.

Third, we continue to believe that no distribution rate element should go negative since doing so would mean other ratepayers are paying these customers to take service. As set forth in our March 28th Order, the reduction will first be applied to kWh charges and then demand charges, if necessary, to realize the full benefit of the

mitigation. No distribution rate element, however, will go below zero as a result of our Order.

The mitigation reduction ordered here shall be effective April 15, 2001, the effective date of our original mitigation order. The reduction shall apply to contracts entered into between the Company and a customer within the Company's large standard offer class on or before April 20, 2001.² Consistent with our March 28, 2001 Order, the mitigation reduction shall be in effect until February 28, 2002.

B. The Level of Mitigation Reduction

The IECG also requests that the mitigation amount be increased to 1.0¢/kWh. Incorporating the comments of the State Economist Laurie LaChance, the IECG argues that the amount provided for mitigation should reduce the ASGA amortization schedule by no more than 2 years with a 1 to 1.5 year period being the "preferred target" for the shortening of the schedule. In our companion order on reconsideration issued for CMP in Docket No. 97-580 on May 3, 2001, we used the suggestion by Ms. LaChance in assessing the reasonableness of our mitigation reduction. For the reasons set forth below, we do not believe that it is appropriate to use such guidelines in assessing the mitigation reduction for BHE.

As we noted above, the amount of BHE's Asset Sale Gain Account is not comparable to that of CMP's. BHE's current Asset Sale Gain Account is approximately \$20 million. In our February 29, 2000 Order in this docket, we set stranded cost rates for BHE for a 2-year period effective March 1, 2000. At that time, in order to achieve rate stability over the long-term, given BHE's pattern of stranded costs, we projected a 5-year uneven amortization of BHE's ASGA. As we noted above, significant additional amounts of ASGA amortization will be needed in 2003 to achieve rate stability due to the expiring BHE-Unitil contract. Shortening the ASGA amortization schedule now by 1 to 1.5 years would likely lead to significant increases in T&D rates for all BHE customers in the 2003-2004 time period. We do not believe this to be a wise course or even the course intended by Ms. LaChance when she proposed her guidelines.³

In our March 28, 2001 Order, we found BHE's residential/small non-residential and medium standard offer class customers had received some mitigation from recent generation price increases by way of BHE's power supply cost levelization strategy. We also found that the 0.8¢/kWh reduction, for BHE's large standard offer class customers, would provide a modest but nevertheless significant degree of price mitigation for customers who had not received the benefit of leveled power supply costs without amortizing the gain account in a manner that would require

² April 20, 2001 is the date we deliberated this matter.

³ The LaChance guidelines were originally proposed to the Legislature during its consideration of a "generic" mitigation proposal. Given the size of CMP relative to BHE, we believe these general guidelines were proposed with CMP's circumstances in mind.

future stranded cost-related rate increases. At that time, we estimated that this rate reduction would reduce the ASGA by approximately \$1.5 million. The expanded scope of the mitigation reduction ordered here will increase the ASGA reduction by approximately \$1.0 million. We believe this modest increase in the reduction to the ASGA will still enable us to utilize the ASGA in a manner that will not require significant stranded cost-related rate increases over the long-term. Based on the arguments presented, then, we conclude that our decision setting the mitigation decrease at .8¢/kWh should not be modified.

In closing, we note that not all classes of customers have received the benefits of the ASGA amortization utilized to effect the rate reductions ordered here and in our March 28, 2001 Order. This fact will be considered in deciding whether future generation price increases should be mitigated in the manner we have done here and in determining how the ASGA amortization should be allocated among customer classes when we set stranded cost rates for the period commencing March 1, 2002.

C. Delegation

As a result of this Order, we expect that BHE will have to reform a number of its special rate contracts with its customers. We, therefore, delegate to the Director of Technical Analysis authority to review and approve contracts which are filed with the Commission pursuant to this Order and are found to be in compliance with the terms set forth above and in our Order of March 28, 2001.

Accordingly, we

O R D E R

1. That consistent with the parameters set forth in our decision above, our Order of March 28, 2001 in this docket is modified to allow customers within Bangor Hydro-Electric Company's large standard offer class who have special rate contracts, a reduction of .8¢/kWh in their T&D rates.

2. That the Industrial Energy Consumers Group's motion to increase the level of the mitigation reduction from .8¢/kWh to 1.0¢/kWh is denied.

3. That the Director of Technical Analysis is delegated authority to approve contracts filed in compliance with this Order.

Dated at Augusta, Maine, this 7th day of May, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.